

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

ADRIAN COLEMAN,

3:11-CV-00958-HU

Plaintiff,

ORDER

v.

SOLARWORLD INDUSTRIES  
AMERICA. INC.,

Defendant.

BROWN, Judge.

Magistrate Judge Dennis James Hubel issued Findings and Recommendation (#30) on December 22, 2011, in which he recommends this Court construe Defendant's Partial Motion (#18) to Dismiss Second Amended Complaint as a motion for partial summary judgment and deny Defendant's Motion. Defendant filed timely Objections

to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

In its Objections, Defendant reiterates the arguments contained in its Memorandum in Support of its Motion to Dismiss, its Reply, and its statements at oral argument. This Court has carefully considered Defendant's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Hubel's Findings and Recommendation (#30). Accordingly, the Court construes Defendant's Partial Motion (#18) to Dismiss Second Amended Complaint as a Motion for Partial Summary Judgment and **DENIES**

Defendant's Motion (#18).

IT IS SO ORDERED.

DATED this 21<sup>st</sup> day of February, 2012.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge